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IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

WENDY LEE MOORE and RICHARD ) Case No. C-07-02860 MISC CRB  
ANDREW TARANTINO, JR., pro se, )  
Petitioners, ) GOVERNMENT'S CASE  
v. ) MANAGEMENT CONFERENCE STATEMENT  
THE UNITED STATES and ) DATE: September 21, 2007  
WELLS FARGO BANK, ) TIME: 10:00 a.m.  
. ) Respondents.

The United States submits this separate Case Management Conference Statement for the reason that although petitioners provided this office with a Joint Case Management Conference, they did not return calls for government revisions or additions. For that reason and for the Court's benefit the United States makes the following addition to the Joint Case Management Statement.

## **PETITIONERS ARE NOT ENTITLED TO DISCOVERY**

Petitioners state that discovery is necessary in this matter. The petitioners are not entitled to discovery as because the summary nature of summons proceedings limits the circumstances under which discovery is available. **United States v. Stuart**, 489 U.S. 353, 369 (1989). Discovery is rarely appropriate in summons cases. See **Chen Chi Wang v. United States**, 757 F.2d 1000, 1004 (9th Cir. 1985). In order for discovery to occur, a taxpayer must make "a substantial preliminary showing that enforcement of the summons would result in an abuse of the court's process" and that "discovery would likely lead to useful, relevant evidence." **Robert v. United States**, 364 F.3d 988,

1 999-1000 (8th Cir. 2004). Because no such showing has been made discovery is not appropriate in  
2 this matter.

3 Respectfully submitted,

4 SCOTT N. SCHOOLS  
5 United States Attorney

6 /s/ Thomas Moore  
7 THOMAS MOORE  
8 Assistant United States Attorney  
9 Tax Division

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